

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

STATE OF ALABAMA and
MORRIS J. BROOKS, JR., Representative for
Alabama's 5th Congressional District,

Plaintiffs,

v.

Case No. 2:18-cv-00772-RDP

UNITED STATES DEPARTMENT OF
COMMERCE; WILBUR L. ROSS,
in his official capacity as Secretary of Commerce;
BUREAU OF THE CENSUS; and
RON S. JARMIN, in his capacity as performing
the non-exclusive functions and duties of the
Director of the U.S. Census Bureau,

Defendants,

and

DIANA MARTINEZ; RAISA SEQUEIRA;
SAULO CORONA; IRVING MEDINA;
JOEY CARDENAS; FLORINDA P. CHAVEZ;
and CHICANOS POR LA CAUSA;

COUNTY OF SANTA CLARA, CALIFORNIA;
KING COUNTY, WASHINGTON; and
CITY OF SAN JOSE, CALIFORNIA,

Intervenor-Defendants.

**STATUS REPORT REGARDING
PROPOSED FURTHER BRIEFING SCHEDULE**

On January 29, 2019, Defendants filed a Notice to the Court of Restoration of Appropriations. *See* Dkt. No. 67. Pursuant to that Notice, Defendants requested the opportunity

to confer with counsel for other parties to this litigation in order to propose a schedule for further briefing. This court granted that request. *See* Text Order, Dkt. No. 68.

As this Court is aware, Defendants filed a Motion to Dismiss on November 13, 2018. *See* Dkt. No. 45. After Defendants filed their Motion to Dismiss, this Court set a briefing schedule pursuant to which Plaintiffs' Opposition to Defendants' Motion to Dismiss was filed on January 25, 2019, and Defendants' Reply in Support of that Motion to Dismiss is due on February 25, 2019. *See* Dkt. No. 48 (Text Order setting briefing schedule for Defendants' Motion to Dismiss). This Court subsequently requested supplemental briefing from Defendants and Intervenor-Defendants, with opening supplemental briefs due on January 4, 2019; Plaintiffs' responsive supplemental brief due on January 25, 2019; and any replies due on February 1, 2019. *See* Order, Dkt. No. 55. While Intervenor-Defendants filed supplemental briefs on January 4 (Dkt. Nos. 59, 60) and Plaintiffs responded to both Defendants' Motion to Dismiss and the Martinez Intervenor-Defendants' supplemental brief on January 25 (Dkt. No. 65), Defendants have not yet filed a supplemental brief due to the lapse in appropriations.

In order to streamline further proceedings, the parties have conferred and propose the following schedule:

- The Martinez Intervenor-Defendants may file a reply supplemental brief on its current due date of February 1, 2019¹; and
- Defendants shall file a consolidated reply in support of their Motion to Dismiss on its current due date of February 25, 2019. That reply brief, which may not exceed 20 pages, may also address the topics identified in all of the supplemental briefs in this matter, whether filed by Intervenor-Defendants or Plaintiffs.

¹ Due to the position that they took in their supplemental filing, the municipal Intervenor-Defendants do not intend to file a reply brief.

While the parties anticipate that Defendants' consolidated reply will not raise any new issues not previously addressed in either Defendants' Motion to Dismiss or the supplemental briefs (including Plaintiffs' response thereto), Plaintiffs reserve the right to seek leave to file a sur-reply to the extent that they identify any new issues that Defendants nonetheless raise in their consolidated brief.

A proposed order is attached hereto.

Dated: February 1, 2019

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

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Director, Federal Programs Branch

CARLOTTA P. WELLS
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/s/ Brad P. Rosenberg
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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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I also hereby certify that I have caused to be mailed by first-class mail the document to the following non-CM/ECF participant:

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/s/ Brad P. Rosenberg

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